states the rule: "It has been held that in the absence of express authority, a municipal corporation cannot acquire property beyond its territorial limits. But municipal corporations are frequently given power to acquire and possess property beyond their corporate limits for the establishment of hospitals, pest-houses, etc., and it seems not improbable that this power might be exercised as incidental to the police power." Vol. 20, 1187. See also DILLON ON MUN. CORP., (4th ed.) §565; *Riley* v. *Rochester*, 9 N. Y. 64; *Denton* v. *Jackson*, 2 Johns. Ch. 320, 335; *Coldwater* v. *Tucker*, 36 Mich. 475, 24 Am. Rep. 601; *Houghton* v. *Huron Mining Co.*, 57 Mich. 547. It is pointed out by the court in the principal case that in most of these cases the city was seeking to exercise governmental control over the property acquired, as in *Riley* v. *Rochester*, *supra*, where it was decided that a city, without express authority, could not hold land beyond its boundaries for the purpose of a highway. But in *Duncan* v. *Lynchburg*, Va., 34 S. E. Rep. 964, 48 L. R. A. 331, it was squarely held that implied authority to operate a rock quarry outside its limits is not conferred upon a city by general provisions in its charter for the purchase, holding, sale and conveyance of real and personal property necessary for its uses and purposes. The Wisconsin court comments upon this case and refuses to follow it.

PARTITION—DEFENSES—ADVERSE POSSESSION—ESTABLISHMENT OF TITLE AT LAW.—Julius Eagle purchased the land in controversy from the state of Arkansas. He has since died, leaving a mother, brother and sister as heirs at law. By statute of Arkansas the mother took a life estate in the land and was entitled to possession of the same. Later she conveys the property for a good and valuable consideration; the mother now being dead her daughter brings this action seeking a partition of the land, as an heir at law of Julius Eagle. The court held that the title must first be tried in a court of law. *Eagle* v. *Franklin* (1903), — Ark. — 75 S. W. 1093.

It was decided in *Kelly's Heirs* v. *McGuire*, 15 Ark. 555 that in cases like the present the mother took but a life estate, and therefore the parties to this suit are co-tenants. The question now arises whether or no ejectment will lie between co-tenants. The minority consider that it will not, but it appears that the rule of law in a majority of the states will not bear them out. *Norris* v. *Sullivan*, 47 Conn. 474; *Ewald* v. *Corbett*, 32 Cal. 493; *Bethell* v. *McCool*, 51 Ind. 303; *Noble* v. *McFarland*, 51 Ill. 226; *Gale* v. *Hines*, 17 Fla. 773; ADAMS ON EJECTMENT 92.

PARTNERSHIP—ACCOUNTING—DIVISION OF PROPERTY—INTEREST.—Shay and Kelly formed a partnership for drilling oil and gas wells, each reserving the right to engage in the same kind of business on his own behalf. The firm, and Shay in his own right, purchased shares of stock in the Greensboro Natural Gas Company. On dissolution of the firm, an accounting showed that Shay was retaining a certain sum of partnership money. On this accounting the court ordered the shares of stock owned by the firm to be divided in specie between the copartners and refused to charge Shay with interest on the partnership money retained by him. *Kelly* v. *Shay, et al.* (1903), — Pa. —, 55 Atl. Rep. 925; *Kelly* v. *Shay, et al.* (1903), — Pa. —, 55 Atl. Rep. 927.

The reason given for such a disposition of the stock is that circumstances were such as to give Shay an advantage over Kelly in bidding at the sale of the stock. On the dissolution of a firm it is the general rule to sell the partnership property, unless there is a contract or partnership articles to the contrary. LINDLEY ON PART., *555 et seq.; COLLYER ON PART. (6th ed.)

§ 383; GOW ON PART. *257; 3 KENT COM. 64; *Rowlands* v. *Evans*, 30 Beav. 302; *Stevens* v. *Stevens*, 39 Conn. 474; *Leach* v. *Leach*, 18 Pick. 68. Most cases hold that the general rule is not to be rigorously applied, yet there is some authority for the rule that a sale must be had if one of the partners insist upon it. GOW ON PART. *257, 3 KENT COM. 64; *Fereday* v. *Wightwick*, Taml. 250, 261; *Lingen* v. *Simpson*, 1 Sim. & Stu. 600. There is but little direct authority for dividing the property in specie over the objections of a partner, as was done in the principal case. STORY ON PART. § 350; *Harper* v. *Lamping*, 33 Cal. 641. The reason of the general rule is its fairness, but when the reason fails, it seems just that, as was held in the principal case, the rule itself must yield to equity and good conscience. Whether or not a partner is to be charged with interest on firm money retained by him must be determined from the circumstances of each case. LINDLEY ON PART. *389, *391; *Gyger's Appeal*, 62 Pa. St. 73, 1 Am. Rep. 382; *Buckingham* v. *Ludlum*, 29 N. J. Eq. 345; *Hutcheson* v. *Smith*, 4 Irish Eq. Rep. 117.

RAILROADS—CONVEYANCE OF RIGHT OF WAY—RIGHT TO ERECT TELEGRAPH POLES BY TELEGRAPH COMPANY—ADDITIONAL BURDEN.—The plaintiff granted to a railroad corporation, a free and perpetual right of entry, right of way and easement, at any and all times, for all purposes necessary and convenient for the use and operation of its railroad. The company erected a set of small poles carrying one or two wires for its telegraph service, but some years later gave a conveyance to the defendant company, for a valuable consideration, whereby the latter was given full rights and privileges to operate its telegraph line on the railroad right of way; at the same time taking over the entire telegraph plant of the company. By the agreement one or two wires were to be maintained for the exclusive use of the railroad company. Thereafter, the defendant company erected a very heavy set of poles, carrying a largely increased number of wires, and the plaintiff, claiming that such an erection of poles, and the right of the defendant company to use the railroad right of way without compensation to him, was an additional burden, and without authority of law, brought suit for damages. *Held*, that the conveyance only operated to give the defendant a license as against the railroad company, without in any manner affecting the rights of the owner of the soil; that the railroad company had not acquired in the original conveyance from its grantor, the right to erect and maintain a telegraph line for general commercial purposes, and that its conveyance to the defendant could only be construed as an attempt to confer a right to maintain a telegraph line for such a purpose. The plaintiff recovered. *Hoges* v. *Western Union Tel. Co.* (1903), N. C. — 45, S. E. Rep. 572.

A telegraph company may not establish its line over the right of way of a railroad company, without making compensation therefor according to law. *A. & P. Tel. Co.* v. *R. R.*, 6 Biss. 158. Unless the deed clearly provides otherwise, the conveyance of a right of way, either by dedication or condemnation proceedings, conveys an easement only, and the fee remains in the grantor for all purposes except those of the railroad. See LEWIS, EM. DOM. Sec. 291. It is conceded that a line of telegraph on a railroad right of way is an additional burden, unless constructed for the use of the railroad company in the operation of its road. See LEWIS, EM. DOM., Sec. 14 1a. That such a use is not that of the railroad company, and is not proper, see *Am. Tel. Co.* v. *Pearce*, 71 Md. 535. As to telephone lines in highways, see *Tel. Co.* v. *Barnett*, 107, 111., 507; *Eels* v. *Am. Tel. & Tel. Co.*, 143 N. Y. 133. On the contrary, such a use is held not to be an additional burden on the right of way, and it does not signify that the telegraph line was erected by a